

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JAMES SCOTT BASKIN,

Petitioner,

v.

Case No. 2:07-cv-172
HON. R. ALLAN EDGAR

LINDA M. METRISH,

Respondent.

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MEMORANDUM AND ORDER

Michigan state prisoner James Scott Baskin filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. The habeas petition was referred to Magistrate Judge Timothy P. Greeley for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and W.D. Mich. LCivR 72.1(d).

On January 29, 2010, the Magistrate Judge submitted his report and recommendation. [Doc. No. 27]. The Magistrate Judge recommends the habeas petition be denied. It is further recommended that any application for a certificate of appealability be denied pursuant to 28 U.S.C. § 2253(c)(2).

Petitioner Baskin has not timely filed an objection to the report and recommendation. After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. LCivR 72.3(b). The Court concludes that the habeas petition is without merit for the reasons expressed in the report and recommendation. The petition for writ of habeas corpus brought under 28 U.S.C. § 2254 shall be **DENIED and DISMISSED WITH PREJUDICE**.

If petitioner Baskin files a notice of appeal, it will be treated as an application for a certificate

of appealability which shall be **DENIED** pursuant to 28 U.S.C. § 2253(c)(2) and Fed. R. App. P. 22(b)(1). Petitioner Baskin has not made a substantial showing of the denial of a right protected under the United States Constitution. Reasonable jurists could not find that this decision to dismiss with prejudice each and every claim for relief presented in the 28 U.S.C. § 2254 habeas petition is debatable or wrong. *Miller-El v. Cockrell*, 537 U.S. 322, 338 (2009); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Webb v. Mitchell*, 586 F.3d 383, 401 (6th Cir. 2009).

For the same reasons that the Court dismisses the habeas petition, the Court finds there is no good faith basis for any appeal by petitioner Baskin. Pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(4)(B) the Court shall certify that any appeal to the Sixth Circuit Court of Appeals would be frivolous and not taken in good faith. Any application by petitioner James Scott Baskin for leave to proceed on appeal *in forma pauperis* shall be **DENIED**.

A separate judgment will enter.

SO ORDERED.

Dated: February 23, 2010.

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE